

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

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|--------------------|---|-------------------|
| STATE OF DELAWARE, |) | |
| |) | |
| v. |) | ID No. 1906006276 |
| |) | |
| DEMETRIUS JOYNER, |) | |
| |) | |
| Defendant. |) | |
| |) | |

Date Submitted: January 30, 2023
Date Decided: March 21, 2023

ORDER

Upon consideration of Defendant’s Motion for Postconviction Relief (“Motion”),¹ Superior Court Criminal Rule 61, statutory and decisional law, and the record, **IT APPEARS THAT:**

(1) On August 4, 2020, Defendant pled guilty to Rape Third Degree.² By Order dated January 8, 2021, effective June 12, 2019, he was sentenced to 20 years at Level V, suspended after 7 years for 13 years at Level IV DOC discretion, suspended after 1 year for 2 years at Level III.³

(2) Defendant did not file a direct appeal. On April 12, 2021, he filed a Motion for Modification of Sentence,⁴ which was denied.⁵ Defendant filed the

¹ D.I. 31.

² D.I. 22.

³ D.I. 24. The first 2 years of Defendant’s sentence are a mandatory term of incarceration. *See* 11 *Del. C.* § 771; 11 *Del. C.* § 4205(b)(2).

⁴ D.I. 25.

⁵ D.I. 26.

instant Motion on January 30, 2023.⁶ The Motion does not set forth any legal grounds for relief; instead, Defendant cites caretaking responsibilities, COVID-19, health issues, and his family's homelessness as his basis for seeking postconviction relief.⁷

(3) Superior Court Criminal Rule 61 governs motions for postconviction relief.⁸ Rule 61(a) requires that a postconviction motion be based on a sufficient factual and legal basis.⁹ If it plainly appears from the motion that the movant is not entitled to relief, the judge may summarily dismiss it.¹⁰ Because the instant Motion fails to provide a sufficient factual and legal basis for postconviction relief, it plainly appears that Defendant is not entitled to relief, and therefore the Court may enter an Order for its summary dismissal.¹¹

(4) Assuming *arguendo* that the Motion was meant to be construed as a motion for modification of sentence, it would be procedurally barred. Under Rule 35(b), there is an absolute bar against repetitive requests for reduction of sentence,¹² and Defendant has previously filed a motion for modification of sentence.¹³

NOW, THEREFORE, IT IS HEREBY ORDERED that Defendant's

⁶ D.I. 31.

⁷ *Id.*

⁸ Super. Ct. Crim. R. 61.

⁹ Super. Ct. Crim. R. 61(a).

¹⁰ Super. Ct. Crim. R. 61(d)(5).

¹¹ *Id.*

¹² Super. Ct. Crim. R. 35(b).

¹³ D.I. 25.

Motion for Postconviction Relief is **SUMMARILY DISMISSED**.

/s/ Jan R. Jurden
Jan R. Jurden, President Judge

Original to Prothonotary

cc: Diana A. Dunn, DAG
Demetrius Joyner (SBI #00264375)